

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ESTABLISHMENT OF TELECOMMUNICATIONS)	
RELAY SERVICE FOR INDIVIDUALS WITH)	ADMINISTRATIVE
HEARING AND SPEECH DISABILITIES IN)	CASE NO. 333
KENTUCKY)	

O R D E R

This matter arising upon petitions of AT&T Communications of the South Central States, Inc. ("AT&T") filed May 1, 1992 and May 5, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of cost/price information and cost data, and it appearing to this Commission as follows:

AT&T seeks to protect as confidential certain cost/price information submitted in response to an oral request from the Commission staff and to protect as confidential certain cost data contained on the billing information supplied to the Commission in accordance with the Trust Agreement between AT&T and Citizens Fidelity Bank and Trust Company ("Bank") on the grounds that disclosure of the information is likely to cause AT&T competitive injury. The information sought to be protected relates to the provisioning of Dual Party Relay Service ("DPRS") by AT&T.

The information sought to be protected is not known outside of AT&T and is not disseminated within AT&T except to those employees who have a legitimate business need to know and act upon

the information. AT&T seeks to preserve the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 10 categories of information. One category exempted in subparagraph (b) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The cost/price information, if made public, would provide AT&T's competitors with valuable cost/price information that they could use in formulating competing bids in other jurisdictions. Therefore, disclosure of the information is likely to cause AT&T competitive injury and the information should be protected as confidential.

Further, AT&T requests that the Commission treat as confidential similar billing information supplied to the Commission pursuant to the Trust Agreement for which confidentiality was inadvertently not requested.

To qualify for any exemption under KRS 61.872, information sought to be protected must be confidential. When the cost data sought to be protected was filed, no petition was made to protect it from public disclosure. Consequently, the information was placed in the Commission's public records and thereby made available for public inspection. Thus, the confidential nature of this information has long since been lost and it no longer qualifies for protection under the Act.

This Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

1. The cost/price information contained in AT&T's May 1, 1992 response to the Commission's oral request, which AT&T has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

2. The cost data contained in AT&T's May 5, 1992 billing information supplied pursuant to the Trust Agreement between AT&T and the Bank, which AT&T has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

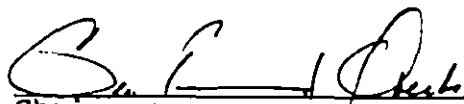
3. That portion of the May 5, 1992 petition seeking to protect as confidential the billing information previously supplied to this Commission and placed in the Commission's public records be and it hereby is denied.

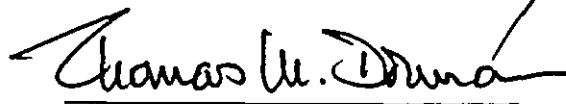
4. That portion of the May 5, 1992 petition requesting that that part of the billing information containing the number of minutes and the cost/price per minute to be filed in the future in

accordance with the Trust Agreement be and it hereby is granted. AT&T shall clearly mark all future billing information supplied pursuant to the Trust Agreement as confidential making reference to this Order as the authority by which the information is confidential.

Done at Frankfort, Kentucky, this 22nd day of June, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:



Executive Director, Acting